IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6544 of 1988

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MUNICIPAL & PANCHAYAT EMPLOYEES UNION MEHSANA.

Versus

THE MEHSANA DISTROCT PANCHAYAT

Appearance:

1. Special Civil Application No. 6544 of 1988

MRS DT SHAH for Petitioner No. 1

RULE SERVED for Respondent No. 1

MR HS MUNSHAW for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 17/09/2004

ORAL JUDGEMENT

Heard Mrs. D.T. Shah, learned advocate for the petitioner and Mr. H.S. Munshaw, learned advocate for the respondents. In this petition, the petitioner has challenged the order passed by the authority under the Minimum Wages Act at Kadi in Civil Miscellaneous Application No. 43 of 1987 dated 26th August, 1988

wherein the application of the petitioner was rejected by the Civil Judge, (JD) and authority under the Minimum Wages Act, Kadi on the ground that the petitioner has not produced any oral and/or documentary evidence for proving its case.

Learned advocate Mrs. Shah submits that the authority under the Minimum Wages Act has erred in rejecting the application and the findings recorded by the said authority for rejecting the application are perverse. Except this, no other submissions were made by the learned advocate Mrs. Shah before this Court.

On the other hand, learned advocate Mr. Munshaw appearing for the respondents has submitted that the recovery application was filed by the concerned workmen under the provisions of the Minimum Wages Act but no oral or documentary evidence was produced or led by the workmen before the labour court to prove their claim before the authority under the Minimum Wages and, therefore, the said authority was right in rejecting the claim of the petitioner and in doing so, the said authority has not committed any error warranting interference of this Court under Article 227 of the Constitution of India. Mr. Munshaw submits that the claim of the workmen for OT Wages was based on the fact that they were required to work for 24 hours in a day but for proving that claim, no evidence, either documentary and/or oral was produced by the workmen before the said authority and, therefore, their claim was rejected by the said authority.

I have perused the order passed by the Civil Judge (JD) and authority under the Minimum Wages Act. It was the claim of the workmen under the provisions of the Minimum Wages for payment of OT Wages as well as damages.No oral evidence was led. No documentary evidence was produced. Therefore, since the claim was not supported by documentary and/or oral evidence, the concerned authority has not believed the case of the petitioner and on that ground alone, the concerned authority has rejected the claim of the petitioner. After perusal of the order in question, according to my opinion, since the workmen were claiming OT Wages, Minimum Wages and damages, it was the burden upon the workmen to prove such claim by producing necessary evidence. Since that burden was not discharged by the workmen either by producing documentary evidence or leading oral evidence, the authority concerned was right in rejecting their claim and in doing so, no error was committed by the authority concerned warranting interference of this Court in exercise of the powers under Article 227 of the Constitution of India. Mrs.

Shah, learned advocate for the petitioner has not been able to point out any infirmity and/or procedural irregularity committed by the authority concerned. Therefore, there is no substance in this petition and the same is required to be dismissed.

Accordingly, this petition is dismissed. Rule is discharged. Interim relief, if any, shall stand vacated. There shall be no order as to costs.

(H.K. Rathod,J.)

Vyas